IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

Crl.MC.No. 1164 of 2007()

CC.396/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT-II, NEYYATTINKARA

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PETITIONER: ACCUSED

GOPALAKRISHNAN ALIAS KRISHNAN
S/O.PAPPUKUTTY AGED 31 YEARS, RESIDING AT
PATHIREYODU THOTTATHIL HOUSE, MURYANKARA DESOM,
PARASSALA, THIRUVANANTHAPURAM.

BY ADV. SRI.V.N.GOPALAKRISHNAN NAIR
SRI.G.SURARSHAN

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. S.I. OF POLICE, PARASSALA POLICE
STATION, THIRUVANANTHAPURAM,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1164 of 2007

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Dated this the 12th day of April, 2007

O R D E R

The petitioner is the 5th accused in a prosecution for offences punishable, inter alia, under Section 324 r/w. 149 I.P.C. All offences are bailable. The substantive offences are compoundable also. According to the petitioner, there has been a settlement and composition of disputes between the parties. But the offences under Section 143, 147 and 148 are not compoundable. Some of the co-accused stood trial. They were found not guilty and acquitted.

2. The first accused and the petitioner were not available for trial. In these circumstances the case against the petitioner and the said 1st accused has been split up. The first accused had come before this Court and directions in his favour were issued as per order dt.31.1.2007 in Crl.M.C. 224 of 2007. The petitioner has come before this Court with a prayer that identical directions as were issued by this Court in Annex.IX may be issued to the petitioner also. His application for bail, to be filed by him when he appears before the learned Magistrate, may be directed to be considered on merits and expeditiously. The case against the first accused is now pending

before the learned Magistrate as C.C.396 of 2006. The same stands posted to 24.4.2007, it is submitted.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. If the matter has been compounded between the parties on the date of his appearance petitioner can report that fact to the learned Magistrate along with the defacto complainant/victim. In that event, the learned Magistrate must dispose of the application for bail on merits, in accordance with law and expeditiously on the date of surrender itself. If the matter has been compounded, that fact has also to be reported to the learned Magistrate and the learned Magistrate must consider such application for composition also along with the prayer that charges for non-compoundable offences are not liable to be framed against the petitioner. In short, the learned Magistrate must consider the case of the petitioner also in accordance with the directions issued in Annex.IX order.

4. This Crl.M.C. is allowed in part to the extent indicated above.

5. Hand over copy of the order.

(R. BASANT)
Judge

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